

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26213 of 2023

Arising Out of PS. Case No.-388 Year-2022 Thana- SUGAULI District- East Champaran

Binay Kant Sahani Son Of Kishori Sahani Resident of village - Mehwa, Ward
no. 13, P.S. - Sugauli, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwari, Advocate

For the Opposite Party/s : Ms. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 16-05-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 272, 273, 414 and 34 of the Indian Penal Code read with Section 30(a) of the Bihar Excise Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and allegation is of recovery of 20 litres of liquor from cowshed of the petitioner.

Learned counsel for the petitioner submits that the petitioner was not arrested from the spot as such nothing was recovered from his conscious possession, it is next submitted that cowshed is a place outside the house and thus is accessible to villagers at large and no prudent person would use his own



premise for committing an illegality and thus would get implicated easily, it is also submitted the petitioner at the instance of the *Chowkidar*, with whom he is on an inimical term, came to be implicated falsely with a view to save the real culprits.

The Court fails to appreciate that as to why the learned trial court did not record the facts of the case in order to arrive at a conclusion whether bar under Section 76 (2) of the Act will apply or not in the facts of the case.

To the Court it appears that the rejection of anticipatory bail is mechanical.

The learned trial court in future should keep in mind that while rejecting anticipatory or regular bail it must briefly record the facts of the case and the defence of the petitioner before arriving at a conclusion.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 1,000/- (Rupees



One Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Sugauli P.S. Case No. 388 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Let a copy of this order be sent to the learned District Judge, East Champaran at Motihari for perusal of the concerned court.

(Satyavrat Verma, J)

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